

September 20, 2002

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**  
850 Union Bank of California Building  
900 Fourth Avenue  
Seattle, Washington 98164  
Telephone (206) 296-4660  
Facsimile (206) 296-1654

**REPORT AND DECISION**

**SUBJECT:** Department of Development and Environmental Services File Nos. **E02G0067 & E0200173**

**EARL AND ENA SOUSHEK**  
Code Enforcement Appeals

Location: 35022 Southeast 332<sup>nd</sup> St., Ravensdale

Appellant: **Earl and Ena Soushek**  
23020 Southeast 272<sup>nd</sup>  
Maple Valley, WA 98038  
Telephone: (425) 432-2444

King County: Department of Development and Environmental Services,  
Enforcement Section, *represented by*  
**Robert Manns and DenoBi Olegba**  
900 Oakesdale Avenue SW  
Renton, WA 98055-1219  
Telephone: (206) 296-7101  
Facsimile: (206) 296-7055

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Appeal DENIED

**EXAMINER PROCEEDINGS:**

Hearing Opened:	September 16, 2002
Hearing Closed:	September 16, 2002

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

1. Following inspections conducted on March 14 and March 27, 2002, the King County Department of Development and Environmental Services Code Enforcement Section issued a notice and order to Earl Soushek for property located in the Forestry zone at 35022 Southeast 332<sup>nd</sup> Street. The notice and order cites the property for a series of zoning and grading violations, including placement and occupancy of a mobile home without required permits and inspections; accumulation on the property of over 67 inoperable vehicles, a variety of junk, debris and auto parts; construction of a storage shed larger than 120 square feet without required permits; grading in excess of 100 cubic yards and within an erosion hazard sensitive area or its buffer; and grading without required erosion and sedimentation control. Mr. Soushek filed a timely appeal of the notice and order. The Department's motion to dismiss the appeal was denied as untimely based on the fact that it was not presented as a pre-hearing request as required by the Examiner's procedural rules.
2. Mr. Soushek does not contest the existence of the inoperable vehicles on the property nor the need to remove them. In like manner, he also agrees that the junk and debris need to be removed from the property and contends that this cleanup work has begun. Mr. Soushek produced a note from a wrecking yard indicating that they were committed to removing the vehicles by October 1, 2002.
3. Both staff and the Appellant are in agreement that Mr. Soushek applied for a County permit to legalize the placement of the mobile home on the property and made appointments for final inspection twice in 1994, for which commitments the County inspector did not appear. Mr. Soushek contends that he should not be required to pay an additional fee to obtain an inspection now. Staff is concerned that this issue be resolved promptly because the mobile home appears to be presently occupied.
4. Mr. Soushek contends that the small storage shed on his property measures 9 by 12 feet and, therefore, is less than 120 square feet in total area. As such, he argues that it falls below the minimum threshold for the building permit requirement. Staff did not submit any measurements to the record, but argues that the square footage requirement should include a somewhat primitive lean-to roof that has been appended to one side of the shed and is supported by corner poles. Staff contends that the shed plus the lean-to together obviously exceed 120 square feet in area.
5. Site development specialist Robert Manns in March, 2002, took photographs of what he believes to be newly graded areas, paced them off, made a rough sketch of their locations, estimated their depth, and calculated the excavation on the property to be in the vicinity of 1300 cubic yards of material. Mr. Soushek stated that most of these areas were not newly graded but merely the blading of underbrush off existing graded areas and argued that the 100-cubic yard grading permit threshold permit had not been met. Looking at Mr. Manns' photographs, it is clear that the grading activity, whatever its overall volume, was a recent occurrence. The photographs show freshly graded areas devoid of new vegetation disturbed no more than a few months earlier.

As to quantities, as Mr. Manns notes a number of the photographs show perimeter piles of dirt and vegetation that are fairly substantial in size. The sheer areal extent of the grading activity assures that the 100 cubic yard threshold has been met. Mr. Manns' site inspection drawing identifies a total disturbed area of approximately 19,200 square feet. If this entire disturbed area were merely excavated to an average three inch depth, the total volume of materials graded would be approximately 175 cubic yards. This very conservative estimate is amply supported by the photographic and testimonial evidence and mandates the conclusion that the 100 cubic yard grading permit threshold has been exceeded.

6. The record is inconclusive as to whether grading has occurred within an erosion hazard area and the extent to which erosion and sedimentation control measures are required in view of the site's well-drained gravel soils. These are matters, however, that can be determined when the grading permit application is submitted, and their final determination is not required at this time. It is sufficient to conclude that the minimum threshold for requiring a grading permit has been exceeded, and that there are sensitive areas and sedimentation control issues that need to be addressed within the permit review process.

#### CONCLUSIONS:

1. It is uncontested that there are dozens of inoperable vehicles on the Soushek property as well as an accumulation of junk, garbage, and debris of various kinds that need to be removed. Based on lack of responsive action by Mr. Soushek in the past, staff would like an immediate order for site abatement. While we can appreciate staff's frustration with this situation, we believe Mr. Soushek should be given a reasonable opportunity to bring the property into voluntary compliance.
2. The mobile home on the Soushek property requires a final inspection in order to legalize its placement, but Mr. Soushek has a legitimate complaint about being required to pay an additional inspection fee when the County clearly failed to respond to prior timely requests for a final inspection. While the mobile home inspection must be obtained, the conditions attached to this decision allow Mr. Soushek a reasonable opportunity to request the final inspection without paying an additional inspection fee.
3. Staff has not introduced evidence demonstrating that the storage shed building on the Soushek's property is greater than 120 square feet and thus requires a building permit. The storage shed will be allowed to remain, but the lean-to roof either will need to be removed or a building permit obtained.
4. Clearing and grading in excess of 100 cubic yards has occurred recently on the Soushek property and a grading permit is required. Sensitive areas and erosion control issues can be addressed within the permitting process. The Appellant will be given a reasonable opportunity to submit a grading permit application without incurring penalties.

DECISION: The appeal is DENIED.

## ORDER:

1. No penalties shall be incurred for the illegal placement of a mobile home, and no inspection fee shall be charged if prior to October 31, 2002, Mr. Soushek submits a request for a mobile home inspection to Bernard Moore, Assistant Building Inspection Supervisor, and the subsequent inspection approves the structure for occupancy. If a timely inspection request is not made as defined herein, subsequent approval of the mobile home for occupancy shall require an ABC permit.
2. No penalties shall be assessed against the Appellant's property for an unpermitted shed if by October 31, 2002, either the lean-to roof is removed or a building permit application is filed for its construction.
3. No penalties shall be assessed against the Appellant's property for inoperable vehicles and junk and debris if all inoperable vehicles and junk, debris, construction storage, and auto parts are removed from the property by October 31, 2002. If this deadline is not met, DDES may conduct a site abatement and assess penalties retroactive to the date of this order.
4. No penalties shall be assessed against the property for grading violations if the Appellant submits a complete grading permit application by October 31, 2002. The application shall include either a sensitive areas restoration plan or a determination by a licensed civil engineer that no site grading has occurred within an erosion hazard area or its regulatory buffer. The permit application shall also effect compliance with erosion and sedimentation control requirements.

ORDERED this 20<sup>th</sup> day of September, 2002.

---

Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 20<sup>th</sup> day of September, 2002, to the parties and interested persons of record:

Earl & Ena Soushek  
23020 SE 272nd  
Maple Valley WA 98038

Elizabeth Deraitus  
DDES/BSD  
Code Enforcement Supervisor  
MS OAK-DE-0100

Beverly Harrelson  
DDES/BSD  
Code Enforcement Section  
MS OAK-DE-0100

Robert Manns  
DDES  
MS-OAK-DE-0100

DenoBi Olegba  
DDES/BSD  
Code Enforcement  
MS OAK-DE-0100

Randy Sandin  
DDES/LUSD  
Site Development Services  
MS OAK-DE-0100

Heather Staines  
DDES/BSD  
Code Enforcement-Finance  
MS OAK-DE-0100

## NOTICE OF RIGHT TO APPEAL

The action of the hearing examiner on this matter shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the issuance of this decision. The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.

### MINUTES OF THE September 16, 2002 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. **E02G0067 and E0200173**

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were DenoBi Olegba, Robert Manns, Fred White, and Bernard Moore representing the Department; and Appellants Earl and Ena Soushek.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES Report to the Hearing Examiner dated September 16, 2002
  - 1a Motion from DDES to Dismiss the Appeal of case no. E02G0067
  - 1b Letter dated 07/01/02 to Earl Soushek from Officer Olegba (att. Notice of Violation)
  - 1c Notice and Statement of Appeal from Earl Soushek dated 07/16/02
- Exhibit No. 2 Notice to Earl Soushek of KC Code Violation dated 07/01/02
- Exhibit No. 3 Notice and Statement of Appeal from Earl Soushek dated 07/16/02
- Exhibit No. 4a Letter dated 03/12/02 from DenoBi Olegba to Earl Soushek re: case no. E0200173
- 4b Letter dated 03/14/02 from DenoBi Olegba to Earl Soushek re: case no. E0200173
- Exhibit No. 5 Excerpts from KCC, WAC, RCW, and Uniform Housing Code
- Exhibit No. 6 Photos taken by DenoBi Olegba
  - 6a 8 photos taken March 13, 2002
  - 6b 8 photos taken March 13, 2002
  - 6c 8 photos taken March 13, 2002
  - 6d 4 photos taken April 11, 2002
  - 6e 4 photos taken April 11, 2002
  - 6f 4 photos taken March 13, 2002
  - 6g 7 photos taken March 1, 2002
  - 6h 4 photos taken April 11 and March 27, 2002
  - 6i 5 photos taken March 13, 2002
- Exhibit No. 7 No entry
- Exhibit No. 8 GIS map with 2000 map coverage
- Exhibit No. 9 Note from 4 Corners Auto Wrecking dated 9/16/02
- Exhibit No. 10 Letter to Earl A. Soushek dated April 17, 2002 from Earl and Ena Soushek
- Exhibit No. 11 Photos (6) taken by Earl Soushek on 6/15/02
- Exhibit No. 12 Forest Practices Application/Notification received 1/09/95
- Exhibit No. 13 Permits plus date system comments re case no. E02G0067
- Exhibit No. 14 Hand-drawn sketch of site and surrounding area